

1 EDMUND G. BROWN JR.
2 Attorney General
3 DANE R. GILLETTE
Chief Assistant Attorney General
4 GERALD A. ENGLER
Senior Assistant Attorney General
5 PEGGY S. RUFFRA
Supervising Deputy Attorney General
6 GREGORY A. OTT
Deputy Attorney General
State Bar No. 160803
7 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Telephone: (415) 703-5964
8 Fax: (415) 703-1234
E-mail: gregory.ott@doj.ca.gov
9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 DENNIS RAY BARNETT,

14 Petitioner,

15 v.

16 MIKE KNOWLES, Warden,

17 Respondent.

18 C 08-1604 RMW (PR)

19 **APPLICATION FOR
ENLARGEMENT OF TIME TO
FILE ANSWER**

20 For the reasons stated in the accompanying declaration of counsel, respondent hereby
21 requests a sixty-day enlargement of time in which to file its answer to the petition for writ of habeas
22 corpus. As explained in the accompanying declaration, counsel has not yet received the entire
23 record of petitioner's state proceedings in this case.

24 Counsel has not contacted petitioner regarding this request, as he is in custody and not
25 represented by counsel.

26 WHEREFORE, respondent respectfully requests that this Court grant an enlargement of
27 time, to and including September 4, 2008, in which to file his answer.

28

1 Dated: July 15, 2008

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
4 Attorney General
5 DANE R. GILLETTE
6 Chief Assistant Attorney General
7 GERALD A. ENGLER
8 Senior Assistant Attorney General
9 PEGGY S. RUFFRA
10 Supervising Deputy Attorney General

11 /s/ Gregory A. Ott
12 GREGORY A. OTT
13 Deputy Attorney General

14 Attorneys for Respondent

15 GAO
16 40201924.wpd

17
18
19
20
21
22
23
24
25
26
27
28

1 EDMUND G. BROWN JR.
2 Attorney General
3 DANE R. GILLETTE
Chief Assistant Attorney General
4 GERALD A. ENGLER
Senior Assistant Attorney General
PEGGY S. RUFFRA
Supervising Deputy Attorney General
5 GREGORY A. OTT
Deputy Attorney General
6 State Bar No. 160803
455 Golden Gate Avenue, Suite 11000
7 San Francisco, CA 94102
Telephone: (415) 703-5964
8 Fax: (415) 703-1234
E-mail: gregory.ott@doj.ca.gov
9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 DENNIS RAY BARNETT,

14 Petitioner,

15 v.

16 MIKE KNOWLES, Warden,

17 Respondent.

18 C 08-1604 RMW (PR)

19
**DECLARATION OF COUNSEL IN
SUPPORT OF APPLICATION FOR
ENLARGEMENT OF TIME TO
FILE ANSWER**

20 I, GREGORY A. OTT, declare under penalty of perjury as follows:

21 I am the California Deputy Attorney General assigned to represent respondent in this case.
22 Respondent's answer was due on July 6, 2008, per this Court's May 7, 2008, Order To Show Cause.
23 I have not previously requested an enlargement of time in this case.

24 According to the petition, In 2000, following a bench trial, petitioner was convicted in
25 Santa Clara County Superior court of assault with a deadly weapon and second degree robbery, with
26 enhancements and seven prior convictions. Petition at 2. He was sentenced on October 12, 2000,
27 to forty-five years to life in prison. He unsuccessfully pursued state direct and collateral review.

28 I request an additional sixty days to file my answer for the following reasons. I have not

1 yet begun briefing respondent's answer, chiefly because I have not yet received the entire record of
2 petitioner's state conviction. I have requested, but have not yet received, the record of petitioner's
3 state direct appeal, and the superior court's record of petitioner's habeas proceedings. I cannot
4 determine whether the petition is timely, let alone address the merits of petitioner's claims, until I
5 receive those materials.

6 I recognize and apologize to the Court and petitioner for the late timing of this request.
7 I inadvertently failed to calendar the due date for respondent's answer, and only recognized
8 yesterday that my response was past due.

I have not contacted petitioner regarding this request, as he is in custody and not represented by counsel.

Accordingly, I request that the Court grant respondent to and including September 4, 2008, in which to file its answer or other response to the petition.

13 I declare under penalty of perjury of the laws of the State of California and the United
14 States of America that the foregoing is true and correct. Executed at San Francisco, California on
15 July 15, 2008.

/s/ Gregory A. Ott
GREGORY A. OTT
Deputy Attorney General

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9
10

11 DENNIS RAY BARNETT,

12 Petitioner,

13 v.

14 MIKE KNOWLES, Warden,

15 Respondent.

16 C 08-1604 RMW (PR)

17 **ORDER**

18 GOOD CAUSE APPEARING, it is hereby ordered that Respondent may have until
19 September 4, 2008, to file his answer to the petition for writ of habeas corpus. If Petitioner wishes
20 to respond to the answer, he shall do so by filing a traverse with the Court and serving it on
Respondent within thirty days of his receipt of the answer.

21 Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as
22 set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254, on or
23 before September 4, 2008. If respondent files such a motion, petitioner shall file with the court and
24 serve on respondent an opposition or statement of non-opposition within thirty days of receipt of the
25 motion, and respondent shall file with the court and serve on petitioner a reply within fifteen days
26 of receipt of any opposition.

27 DATED: _____, 2008.

28

RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Barnett v. Knowles, Warden**

No.: **C 08-1604 RMW (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On July 15, 2008, I served the attached **APPLICATION FOR ENLARGEMENT OF TIME TO FILE ANSWER; DECLARATION OF COUNSEL IN SUPPORT OF APPLICATION FOR ENLARGEMENT OF TIME TO FILE ANSWER; ORDER** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as follows:

Dennis Ray Barnett
CDC&R No. C-77539
California Medical Facility
P.O. Box 2500
Vacaville, CA 94696-2500

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 15, 2008, at San Francisco, California.

D. Desuyo

Declarant

/s/

D. Desuyo

Signature